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Senator Dianne Feinstein

of California

Senator Feinstein Urges FERC to Reject Staff Settlement with Dynergy over Manipulation of Energy Market January 29, 2004

Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) today urged the Federal Energy Regulatory Commission (FERC) to reject a settlement, which commission staff has reached with energy producer, Dynergy, over manipulation of the energy market -- including load shifting, false reporting, and double selling. Feinstein also called upon FERC to order staff to renegotiate the settlement “to properly reflect the damage that was inflicted upon California and its citizens.”

Under the staff settlement, which must be approved by the full commission, Dynergy would pay \$3 million to settle litigation arising from charges that wholesale energy suppliers withheld power or "gamed" California's deregulated energy market in 2000 and 2001.

In accordance with the settlement, Dynergy would not have to admit or deny any wrongdoing. Dynergy's agreement does not include any refunds the company may owe through the recalculation of power prices in California markets between October 2000 and June 2001.

The following is the text of a letter Senator Feinstein sent to FERC Chairman, Pat Wood:

“I am writing again to express my concern that the Federal Energy Regulatory Commission (FERC) is moving in a direction that fails to protect electricity consumers in California and the rest of the West by agreeing to settle or dismiss charges against energy companies and utilities that gamed the California energy market during the Western energy crisis.

On January 22, FERC granted motions to dismiss allegations of improper activities against thirty-one companies and accepted settlements of manipulation claims against another five companies. These five settlements totaled a mere \$142,000. The continual reports of such meager settlements have me concerned that the Commission is simply allowing companies that illegally manipulated the California energy market to get away with a mere slap on the wrist. These meager settlements would be one thing if the companies at least admitted that they acted illegally. However, the settlements let these companies off the hook by allowing them to circumvent any admission of wrongdoing.

As you are well aware, the State of California, the California Attorney General's office, and the state's largest utilities have filed over 3,000 pages of evidence at FERC illustrating the extent of fraud and manipulation that took place in California during the Western Energy Crisis of 2000-2001. Soon after the filing of these documents, FERC issued its 'Final Report on Price Manipulation in Western Markets' which confirmed 'significant market manipulation' took place during the Western Energy Crisis. If this is indeed the case, then how can FERC continue to enter into settlements with these companies that in no way represent the monetary damages inflicted by their manipulative behavior and allow them to avoid any admission of guilt?

On January 21, it was reported that FERC staff had entered into a settlement with Dynegy for the disappointing sum of \$3,014,942 for charges that Dynegy may have engaged in manipulative behavior such as load shifting, false reporting, and double selling.

I continue to believe that FERC needs to provide the citizens of California with the justice they deserve. Unfortunately, FERC staff continues to enter into settlements with companies such as Dynegy that fail to represent the damages these companies brought upon California and its citizens. In the first quarter of 2001, Dynegy posted a recurring net income of \$137.5 million, a seventy-three percent increase in net income from the \$79.4 million it reported in 2000 and a one-hundred-two percent increase from the company's reported first quarter income in 1999. Surely, such an exorbitant jump in profits merits a more thorough investigation and illustrates that the \$3 million agreement does not come close to representing the true fraud and manipulation Dynegy engaged in during the Western energy crisis and the damage it caused to the California economy.

Knowing that the Dynegy settlement is still subject to the approval of the full Commission, I strongly urge you and your fellow Commissioners to reject this settlement and order this agreement to be renegotiated by staff to properly reflect the damage that was inflicted upon California and its citizens."

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